



STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the Request  
for Opinion Concerning the  
Conduct of MICHAEL SCHNEIDER,  
State Senator,  
State of Nevada,

Request for Opinion No.: 09-02C

Subject.

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**EXECUTIVE DIRECTOR'S APPROVAL OF INVESTIGATOR'S REPORT  
AND EXECUTIVE DIRECTOR'S RECOMMENDATION**

The following is the Executive Director's recommendation based on the Investigator's Report and investigation of the Ethics Complaint filed against State Senator Mike Schneider (Schneider), a public officer, and on his response in the form of a letter from the Legislative Counsel (Response).

**Allegations:**

The main allegation is about Schneider's contact of the Attorney General on the Nevada Board of Homeopathic Medical Examiners' (NBHME) temporary suspension of Daniel Royal's license. His license was suspended after a complaint was filed alleging that Dean Friesen (Friesen), an unlicensed pharmacist, was practicing in Royal's facility without a homeopathy license.

The other allegations concern Schneider's appearance at a NBHME meeting to urge the board not to remove Daniel Royal as their president; Schneider's contact with the Attorney General over subpoenas for Daniel Royal and Friesen; Schneider's use of the Legislative Counsel to obtain a legal opinion that was used to benefit Daniel Royal on his license suspension.

**Facts:**

The main parties involved are: Michael Schneider, State Senator; Daniel Royal, homeopathic physician; Dean Friesen, unlicensed pharmacist and Catherine Cortez Masto, Attorney General.

Schneider has long been interested in and advocated for alternative medicine for years. Schneider's Response, p. 2. Schneider met Daniel Royal and Dean Friesen in April 2005, when they worked with Schneider on legislation to create the Nevada Institutional Review Board (NIRB). Schneider became Royal's patient after they met in 2005, but apparently the relationship was for only about a month. Investigator's Report, Tab D, Exhibit 4. Schneider

agrees that he was Daniel Royal's patient, but denies he has an ongoing patient relationship with Royal. Response, p. 4. The NIRB is under the supervision of the NBHME. Schneider took an active interest in both boards and in Daniel Royal in particular. On February 9, 2006, Schneider appeared before the NBHME offered a statement in support of then President Daniel Royal and said an officer (Royal) cannot be deposed without cause. Investigator's Report, Tab B, Exhibit 4. On February 22, 2006, Schneider requested the Legislature conduct an audit of the NBMHE. Response, Exhibit B.

A complaint was filed against Daniel Royal in July 2006. Investigator's Report, Tab E, Exhibit 10.

The Attorney General's office had initiated an investigation against Daniel Royal. Apparently, Masto was unaware of the investigation, until Schneider contacted her about the subpoenas attempted to be served on Daniel Royal and Friesen in Schneider's Legislative office in April 2007. Investigator's Report, Tab D, Exhibit 1. Schneider denies he contacted Masto regarding the subpoenas. Schneider's Response, p.3, last line and Investigator's Report, Tab D, Exhibit 5.

On September 13, 2007, Schneider received a legal opinion that he requested from the Legislative Counsel that found Daniel Royal's homeopathy license could not be suspended because the Board of Osteopathy also licensed him. Royal also received a copy of the opinion. Investigator's Report, Tab B, Exhibit 8.

On September 14, 2007 the NBHME filed a complaint against Daniel Royal for allegedly allowing Friesen, an unlicensed pharmacist, to practice homeopathy in Royal's facility. On September 18, 2007, the NBHME temporarily suspended Daniel Royal's license and set a hearing on October 25, 2007. Investigator's Report, Tab B, Exhibit 9.

Daniel Royal's office was searched based on a search warrant obtained by the Attorney General's office on October 8, 2007. Response, p. 5. On October 8 or 9, 2007, Schneider again contacted Masto regarding Daniel Royal and Friesen over the temporary suspension of Royal's license. Masto and her deputy Christi Guersi-Nyhus met with Schneider. Masto consulted other staff members and directed Guerci-Nyhus to proceed by calling a "non meeting" followed by an emergency meeting of the NHBME. Investigator's Report, Tab E, Exhibit 26. The meeting was held on October 18, 2007 and the suspension of Daniel Royal's license was vacated. Investigator's Report, Tab B, Exhibit 13. According to Masto, she was unaware of the NBHME actions against Daniel Royal until Schneider brought the matter to her attention in April and in October 2007.

#### **Nevada Revised Statutes (NRS) and case law:**

The applicable statutes are NRS 281A.400.2, NRS 281A.400.8 and NRS 218.695. Pursuant to NRS 281A.400.2, Schneider may not use his position as state senator to secure an unwarranted privilege or advantage for himself or any person to whom he has a commitment in a private capacity to that person. Under NRS 281A.400.2 (b), "unwarranted" means without adequate reason or justification. A "commitment in a private capacity to the interests of others" means a commitment to a person: (a) who is a member of his household; (b) who is related to him by blood, adoption or marriage within the third degree of consanguinity or affinity; (c) who employs him or a member of his household; (d) with whom he has a substantial and continuing business relationship; or (e) any other commitment or relationship that is substantially similar to a commitment or relationship described in this subsection.

NRS 281A.400.8 provides that a Legislator shall not use government time, property, equipment or other facility for a nongovernmental purpose or a private benefit of himself or any other person.

NRS 218.695 provides that the Legislative Counsel shall give his opinion in writing on any question of law upon the request of any member of the Legislature.

In Nevada Commission on Ethics, Opinion 08-04C, In re Hardy, the Commission determined that the statute of limitations was two (2) years on ethics complaints, pursuant to NRS 11.190.4(b).

**Recommendation:**

After reviewing the evidence and NRS 281A.400.2, and NRS 281A.400.8, the recommendation is that the Panel find just and sufficient cause **DOES NOT EXIST** for the Commission to render an opinion on the allegations that Schneider used his position as state senator to secure unwarranted privileges or exemption for others, or used government property or equipment for his personal benefit or for any other person.

**Analysis:**

The purpose of the Nevada Ethics in Government Law is to hold public officials accountable to the public they serve. Such officials should not use their positions to benefit themselves or those with whom they have a close relationship. Therefore, the first determination that the Panel must make is whether Schneider had a close relationship with Daniel Royal or Dean Friesen. If not, then, none of Schneider's actions on Daniel Royal's license and the subpoenas for Royal and Friesen could have benefited them and violated NRS 281A.400.2.

The evidence uncovered in the investigation is that Schneider has no private relationship or commitment to Daniel Royal or Friesen. Schneider was Royal's patient in 2005. Schneider appeared before the NBHME in 2006 on behalf of Daniel Royal to help him keep his position as board president. Schneider used his title as State Senator in his written remarks. Schneider had no private commitment to Royal at the time, and even if Schneider did, the allegation is barred by the two-year statute of limitations.

Schneider contacted Masto twice on behalf of Daniel Royal and Friesen in April 2007 over certain subpoenas and in October 2007 over Royals' temporary suspension of this license. Based on Schneider's requests, Masto inquired into the subpoenas and into the way Daniel Royal's license was temporarily suspended for an allegation that he allowed an unlicensed person (Friesen) to practice homeopathy without a license in Royal's facility. At her direction, her deputy Christi Guersi-Nyhus investigated the situation and based on her recommendation Masto decided to take action to ensure that the NBHME vacated the suspension of Daniel Royal's license.


Therefore, the recommendation is that the Panel find that just and sufficient cause **DOES NOT EXIST** for the Commission to render an opinion on whether SCHNEIDER violated NRS 281A.400.2 by contacting Attorney General Masto regarding the subpoenas for Daniel Royal and Friesen and regarding the temporary suspension of Royal's license.

Likewise, the recommendation is that the Panel find that just and sufficient cause **DOES NOT EXIST** on the alleged violation of NRS 282A.400.8 when Schneider obtained an legal opinion from Legislative Counsel for Daniel Royal's benefit. NRS 218.695 permits legislators to request legal opinions on any law. Therefore, Schneider could not have violated the ethics laws for this request.

**Conclusion:**

The Recommendation is that the Panel find just and sufficient cause **DOES NOT EXIST** for the Commission render an opinion on all of the above allegations against SCHNEIDER including the alleged violations of NRS 281A.400.2 and NRS 281A.400.8.

**Approval of Investigator's Report and Executive Director's Recommendation:**

  
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Patricia D. Cafferata, Esq.  
Executive Director

Dated: February 23, 2019